IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8437 OF 2004

Shri Pundalik V.Tanavde .. Petitioner

Vs.

Mrs.Priya Pundalik Tanavde .. Respondent

Mr.Madhav Jamdar for the petitioner

Mr.B.J.Sawant for the respondent

CORAM : S.U.KAMDAR, J
DATED : 24TH NOVEMBER, 2005

P.C.:

1. By the impugned order dt.9.3.04 the learned Family court has passed an order of fixing the maintenance of Rs.800/- to respondent no.1 and Rs.500/- for minor daughter who is residing with her. The total amount of maintenance granted is Rs.1300/-. This order of fixation of maintenance is challenged by filing the present writ petition.

2. The learned counsel for the petitioner states that the respondent is not entitled to maintenance at all because the respondent has

already received the sum of Rs.2,95,000/- by selling one of the property belonging to the petitioner. Furthermore, that the respondent is having an affair with the third person and as such she is not entitled to maintenance. The learned counsel for the petitioner has further contended that the salary of the petitioner is Rs.4800 and after deduction he receives net amount of Rs.1600 and by the said amount he has to maintain himself his another son who is deaf and dumb like him and one daughter from his previous marriage. In my opinion the order passed by the Learned Judge, Family Court No.4, Mumbai dt.9.3.04, does not call for any interference as the amount of maintenance fixed is meagre amount of Rs.800/- for wife and Rs.500/- for daughter. Apart from the same I find that the argument of the amount received from the sale of property of Rs.2,95,000/- has no much substance because sale deed is on record which has been executed by the petitioner and it cannot be stated that he did not collect the money while executing the sale deed and that the money has been taken by respondent wife.

3. Looking at the facts and circumstances of the case, I am of the opinion that the order of fixation of maintenance of said amount does not require for any interference by this court in writ jurisdiction under Article 226 of the Constitution of India. Accordingly, petition fails. Petition dismissed accordingly. No order as to costs.

4. The amount of arrears deposited by the petitioner in court is permitted to be withdrawn by the respondent no.1. The learned counsel for the respondent seeks stay of the order. Stay refused.